

**IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE**

Appl. No. : 10/725,769

Applicant(s): Stuart M. Lindsay, et al.

Filed: December 2, 2003

TC/A.U.: 2800/2878

Examiner: Tony Ko

Atty. Docket: 10060298-02

Confirmation No.: 3836

Title: FAST SCANNING STAGE FOR A SCANNING
PROBE MICROSCOPE

COMBINED NOTICE OF APPEAL AND INTERVIEW SUMMARY

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action of **January 27, 2009**, Applicants provide a Notice of Appeal and an Interview Summary as separate sheets.

1. Notice of Appeal and Fees

Notice:

Applicants provide herewith a Notice of Appeal under 37 C.F.R. § 41.31, appealing the decision by the Examiner in rejecting claims 1-13 and 15 in the Office Action of January 27, 2009. Applicants note that the Office Action of January 27, 2009 re-opened prosecution after consideration of an Appeal Brief filed on October 9, 2008. By this Notice, Applicants respectfully reinstate their appeal.

Fees:

Because the fees required for the Notice of Appeal are believed to have changed in the time between the previous Notice (July 25, 2008) and the filing of the present Notice of Appeal, the difference in the fees is required for the present Notice of Appeal. As such, permission is given to charge \$30.00 to Deposit Account no. 50-1078 (Agilent Technologies) for the fee required for the present Notice of Appeal. Moreover, any deficiency required to preserve this appeal may be charged and any overpayment may be credited to the noted deposit account.

2. Interview Summary

Applicants' representative, William Francos, contacted Examiner Ko, on March 27, 2009 inquiring about the propriety of the finality of the Office Action dated January 27, 2009. The Examiner indicated that even though the Office Action reopened prosecution after consideration of Applicants Appeal Brief, that the finality was correct because Applicants' amendment previously filed so necessitated the rejection.

Applicants do not concede the propriety of the finality of the rejection.

Conclusion

If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted on behalf of:
Agilent Technologies, Inc.

/William S. Francos/

by: William S. Francos (Reg. No. 38,456)

Date: April 27, 2009

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